

REMARKS/ARGUMENTS

Favorable reconsideration of this application is respectfully requested. Claims 2-5 and 7-14 are pending, none of the claims having been amended by way of the present amendment.

In the outstanding Office Action Claims 2-5 and 7-14 were rejected as being unpatentable over Wong et al. (WO 99/03290, hereinafter Wong) in view of Korpela (U.S. Patent Publication No. 2001/0031638, hereinafter Korpela) and in further view of Yagi (U.S. Patent No. 2004/0053626, hereinafter Yagi).

In reply, Applicants traverse the rejection, as Applicants hereby ante-date Yagi. The outstanding Office Action asserts Yagi as being published on March 18, 2004, which was based on a PCT application. Therefore the 35 U.S.C. § 102(e) date corresponds with the U.S. publication date of Yagi.

However, consistent with Applicants' duty of disclosure, Applicants call to the Examiner's attention that Yagi, which was filed in the Japanese language, had a PCT publication date of October 17, 2002. This is one day before Japanese priority document 2002-304748, which was filed in the Japanese Patent Office on October 18, 2002.

Applicants perfect priority to the above-identified Japanese priority document by the earlier filing of an accurate English language translation of the Japanese priority document on October 17, 2007. While perfecting priority entitles Applicants to an invention date at least as of October 18, 2002, nevertheless the PCT publication of Yagi was one day prior. This PCT publication date does not make Yagi a 102(b) reference because the U.S. filing date for the subject application was October 17, 2003.

Applicants file herewith a Declaration under 37 C.F.R. § 1.131, which explains that Japanese priority document JP 2002-304748 was filed in the JPO on October 18, 2002 and

provides a translation of it herewith, along with the assertion that the presently claimed invention is adequately supported by this Japanese priority document.

The declaration of the inventors also includes evidence of the inventors' earlier conception of the invention based on a request from the Assignee, NTT DoCoMo, dated September 5, 2002, an English language translation of which is provided with the declaration. The Japanese patent law firm drafting the application prepared the application based on the Summary of the Invention (provided with declaration) provided to them on September 5, 2002. The application was prepared for filing as of October 17, 2002, the date by which the Assignee, NTT DoCoMo, requested the Japanese law firm to file the patent application in the Japanese Patent Office. Moreover, the instruction letter to the Japanese law firm on October 17, 2002 (provided with declaration) indicates that "concerning the draft of Amendment 14-0295 that you sent the other day, please implement the following correction and proceed with the application procedure." This is further evidence that the Japanese law firm acted diligently in preparing and filing the patent application. Filing the application the very next day, namely October 18, 2002, is evidence once again that the Japanese law firm acted diligently in constructively reducing the invention to practice.

As such, because Applicants have provided sufficient evidence of conception of the invention prior to October 17, 2002, and diligence in constructively reducing the invention to practice on October 18, 2002, it is respectfully submitted that Yagi is not prior art with regard to the presently pending claims.

Application No. 10/686,609
Reply to Office Action of March 5, 2008

As all of the claims are rejected based on Yagi in view of other references, and now that Yagi has been removed as being prior art, it is respectfully submitted that Claims 2-5 and 7-14 are patentable over the asserted prior art. A Notice of Allowability is earnestly solicited.

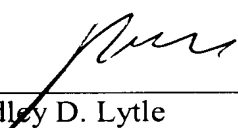
Respectfully submitted,

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